

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6003 of 1997

with

SPECIAL CIVIL APPLICATION NO. 6005 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

1 to 5 No.

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HURSINGBHAI KANJIBHAI VASONIA

Versus

POONAM CONSTRUCTION COMPANY PRO.SHRI GILRISHBHAI G.TRIVEDI

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Appearance:

In both the petitions:

MR VD PARGHI for Petitioners.

MR AD DESAI for Respondent No. 1

MR MA PAREKH for Respondent No. 2

MRS KRISHNA G RAWAL for Respondent No. 3

MR AMIT J SHAH for Respondent No. 4

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 24/02/98

ORAL JUDGEMENT

On 14-5-92 the Commissioner for Workmen's

Compensation , Ahmedabad, passed two orders in Applications Nos.135/96 and 136/96 directing the respondents to pay Rs.81,497/- and Rs.82,274/- respectively to the respective petitioners of these two petitions. It is not in dispute that none of the respondent has challenged the said orders passed by the Commissioner for Workmen's Compensation. The petitioners have filed these petitions for appropriate writ, order or direction directing the respondents to make payment of the amount awarded by the Commissioner for Workmen's Compensation with 21 per cent interest from the date of the award till the payment.

In pursuance of the various orders passed by this Court , respondents Nos.2 and 3 have deposited in all Rs.2,13,748/- in this Court in respect of both these petitions. It is contended on behalf of respondents Nos.2 and 3 that respondent No.1 Poonam Construction is also liable to make the payment. It is also contended that respondents Nos.2 and 3 have cleared the bills of respondent No.1-company and, therefore, if the petitioners are allowed to withdraw the amount deposited in this Court, the same would prejudice the interest of respondents Nos.2 and 3 as only respondents Nos.2 and 3 would be ultimately the sufferers inasmuch as even though they have already cleared the dues of respondent No.1, they are made liable to pay the amount of compensation. Assuming that there is some substance in the say of respondents Nos.2 and 3, but for that reason the valid claim of the petitioners cannot be rejected, especially when they have succeeded in establishing their claim before the Commissioner of Workmen's Compensation. It is always open to the said respondents Nos.2 and 3 to recover the amount from respondent No.1 by filing suits or taking out appropriate proceedings ,if at all they have a case. Considering this, I am of the opinion that the petitioners are entitled to receive the amount deposited in this Court.

Mr. Parghi, learned Advocate appearing for the petitioners in these matters, however, has suggested that instead of entrusting the entire amount to the petitioners, the same may be directed to be invested in any nationalised Bank in Jhalod and monthly interest accruing thereon may be permitted to be withdrawn by the petitioners.

In the result, these petitions are allowed.The Registrar of this Court is directed to remit the respective amounts deposited in these two petitions to the Court of the learned Civil Judge (J.D.), Jhalod,

Dist:Dahod, who , in turn , is directed to invest the said amounts in fixed deposits in the respective names of the petitioners, i.e. Harsingbhai Kanjibhai Vasonia and Kidiabhai Kachrabhai Damor initially for a period of five years in any nationalised bank in Jhalod , Dist:Dahod with liberty to the respective petitioners to withdraw the monthly interest accruing thereon. Rule in each of these petitions is made absolute to the aforesaid extent with no order as to costs.

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